



Town of New Windsor

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OFFICE OF THE PLANNING BOARD

JANUARY 28, 2004 - WEDNESDAY — 7:30 PM
TENTATIVE AGENDA

CALL TO ORDER

ROLL CALL

REGULAR ITEMS:

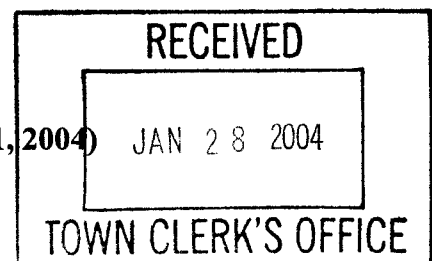
1. RPA ASSOCIATES - PATRIOT BLUFF SITE PLAN (01-65) UNION AVE & RT. 32 (SHAW)
Proposed 106 condominium units.
2. RPA ASSOCIATES - PATRIOT ESTATES SUBDIVISION (01-66) UNION AVE & RT. 32
(SHAW) Proposed 31 single-family homes.
3. MASONIC FELLOWSHIP OF NEWBURGH LOT LINE CHANGE (04-01) RT. 32 (COPPOLA)
Existing six-lot subdivision to be reconfigured to three-lots.
4. MASONIC FELLOWSHIP OF NEWBURGH SITE PLAN (04-02) RT. 32)COPPOLA
Proposed one-story fraternal organization building on Parcel A.
5. EUGENE & JANN HECHT (TRUCK & TRAILER DEPOT & ECONO TOWING SITE PLAN &
SPECIAL PERMIT (04-03) Proposed mixed uses on single property.

DISCUSSION

6. N.W. FIRE DEPT. – DECISION ON PUBLIC HEARING SCHEDULING

ADJOURNMENT

(NEXT MEETING – FEBRUARY 11, 2004)



TOWN OF NEW WINDSOR

PLANNING BOARD

JANUARY 28, 2004

MEMBERS PRESENT: JAMES PETRO, CHAIRMAN
JERRY ARGENIO
ERIC MASON
NEIL SCHLESINGER

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: JIM BRESNAN
RON LANDER
THOMAS KARNAVEZOS
MYRA MASON

REGULAR MEETING

MR. PETRO: I'd like to call the January 28, 2004 meeting to order. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

MASONIC FELLOWSHIP OF NEWBURGH LOT LINE CHANGE (04-01)

Mr. Anthony Coppola appeared before the board for this proposal.

MR. PETRO: Existing six lot subdivision to be reconfigured to three lots. This plan involves combination and rearrangement of lot lines to convert five existing lots into three configured lots. It's in the C zone, bulk information shown on the plan is correct for the zone. Submitted plan has areas of poor copy.

MR. COPPOLA: Didn't come out?

MR. PETRO: Something that you cannot read?

MR. EDSALL: We need to get regular print because the xerox copy just doesn't work. You can't read quite a number of the portions of it.

MR. PETRO: Plan requires some correction to accurately reflect property lines. The applicant's surveyor should check the following and there's a checklist here.

MR. EDSALL: Things for the surveyor to work on.

MR. PETRO: Why don't you show us what you want to do there first, Anthony?

MR. COPPOLA: Two things, site plan approval and subdivision.

MR. PETRO: Stay with the lot line change. We'll go to the next one, this is just lot line change.

MR. COPPOLA: Okay, essentially, what we're doing is there are six existing lots, we're recombining them to form three lots. They're all contiguous here. There's

two parcels down here on Route 32, one parcel behind the large parcel 12.6 acres in the back and additional corner parcel is part of that and then Parcel B which also has road frontage on Route 32. Those are going to be combined into three parcels. There will be one large parcel in the rear that will be from this lot line all the way around to here.

MR. PETRO: What lines are we eliminating?

MR. COPPOLA: Well, there's a lot line here, these lot lines are being eliminated so the two lots here are being absorbed into this lot.

MR. PETRO: Those two front lots?

MR. COPPOLA: There's two here, right.

MR. ARGENIO: The lot where it says Lee is going to remain?

MR. COPPOLA: Right.

MR. ARGENIO: There's a line here you can't see, this is like--it's the ink thing again, there's a lot line here, correct and here?

MR. COPPOLA: That's correct.

MR. PETRO: From now on, when somebody's in workshop and they're going to remove a lot line, tell them it has to be a different color, lot lines to be removed.

MR. EDSALL: It's a bad copy to start off with, it was easier to follow when the plan was printed readable.

MR. COPPOLA: I can give you this plan right now.

MR. PETRO: What's the purpose of the lot lines being removed?

MR. COPPOLA: Well, our site plan involves Parcel A, Masonic Temple, there's another Parcel B being sold separately and Masonic Temple wants the option to sell Parcel C at some future point with the road frontage so Parcel B and C would be developed at some later stage with separate site plans but those would be two different owners. Parcel A, the large parcel in the rear, that's the site plan application that we have.

MR. PETRO: B and C would have no access off that main road going into Parcel A at this time, right, in other words, any restrictions or any easements?

MR. COPPOLA: B, no, C possibly, it would have road frontage on 32. There would probably be some type of an easement probably at least utility easement here and DOT, we really, depending upon DOT, also, DOT does not want this to be developed, that may be a condition of that, so I can't answer that but probably.

MR. PETRO: It would be a good idea because Parcel C is very close to, if you take Lee out, I don't know what the spacing is but it's certainly not a lot, 117 feet, it would be very close, I'm not going to make that a condition. See what DOT comes up with. If they're fine with it, for some reason then it's fine, but I think an easement should be made from Parcel C in my opinion down that lane.

MR. COPPOLA: I think there will be.

MR. EDSALL: That was one of the things I recommended at the workshop.

MR. PETRO: Is it on one of your comments?

MR. EDSALL: It's there, I referenced here as a proposed right-of-way but I have also recommended it cause my difficulty is that once this lot line change

is combined, if they haven't made the reservation, it's hard to get it later so at least ask that it be reserved.

MR. COPPOLA: Yeah, so we understand that.

MR. MASON: Where is this? I can't make it out.

MR. COPPOLA: You're close to Devitt's, I believe directly across the street, it's on Snake Hill.

MR. SCHLESINGER: What's the access to Parcel A?

MR. COPPOLA: There's an existing private driveway right here now.

MR. PETRO: Your location plan there should be a little more, looks like you took it from the moon.

MR. COPPOLA: Sometimes they're not too good, it's at the base of Snake Hill.

MR. PETRO: Well, there's six comments from the planning board engineer that need to be looked at. The licensed surveyor prepared the plan, a registered architect must stamp the plan, evidently, it's not stamped properly.

MR. EDSALL: Yeah, the final plan or at least subsequent one should have his signature as well.

MR. PETRO: May wish to assume position of lead agency.

MR. R. AGENIO: I'll make the motion.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board make itself lead agency for the Masonic Fellowship of Newburgh lot line change on

Route 32. Any further comments from the board members?
If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. COPPOLA: I think, I just have one question on the subdivision, I think it's the desire of the applicants to have the subdivision or lot line change occur much sooner than the site plan would occur so we would probably--

MR. PETRO: One has nothing to do with the other. Frankly, if these six comments weren't on here, you can read the plan, it was stamped properly and you had the easement taken care of, I'd do it tonight. But with seven or eight items, we can do it in two weeks, I know that you're anxious to get it done but there's so much homework there.

MR. COPPOLA: That's fine.

MR. PETRO: Next meeting.

MR. RONES: What's the date of the next meeting?

MR. PETRO: Tenth or eleventh, it's the second Wednesday of the month.

MR. EDSALL: February 11th.

MR. PETRO: It's in that area. You follow what we have to do for the subdivision?

MR. COPPOLA: Yes, I know exactly what we need to do.

MR. PETRO: Mark and I are both saying the same thing, write in an easement for Parcel C down that lane, that doesn't mean you have to use it.

MR. COPPOLA: Well, no, I mean, we have the option to have it there, we might as well do it.

MR. PETRO: Afterwards you're not going to have that option so you have to do it now.

MR. COPPOLA: Right.

MR. PETRO: And you have the six items from Mark on his bullet items and you have to have the plan stamped properly, that's it. See you in two weeks.

MASONIC FELLOWSHIP OF NEWBURGH SITE PLAN (04-02)

Mr. Anthony Coppola appeared before the board for this proposal.

MR. PETRO: Before you start, let me read this in just so I have this in. This plan proposes various improvements on Parcel A as part of the fraternal organization's use. The plan is reviewed on a concept basis only. Parcel A to include multi-purpose one story building pavilion and office building. Let's talk about the zoning first, how do you get the zoning which is, what's this, Mark, again, what zone?

MR. EDSALL: C zone design shopping.

MR. PETRO: You have proposed one story building, is it a commercial building?

MR. COPPOLA: Well, I'm looking here at the notes that we have, A-5, that's what's being proposed here in terms of the use would be a more or less a place of assembly, I mean, basically, they would have, and there's a 10,000 square foot building being proposed with that, there would be an outdoor pavilion not enclosed and then a soccer field inside the 10,000 square foot building which then we'd be 6,000 to start with is the lodge, meeting hall, meeting hall/dining room, there'd be a kitchen inside, smaller offices, that type of thing.

MR. PETRO: You're classifying it as a place of assembly. Now, Mark, you agree with that classification?

MR. EDSALL: As long as the use of all the buildings and the structures on that site are under the envelope of that fraternal organization they fit under A-5, if it was rented out or used by other than the organization, then it's a whole different ballgame. So

what they're saying that that organization has different uses, be it functions, meetings, gatherings, that's what they're planning to do there, as I understand it.

MR. PETRO: Soccer field also fits in?

MR. EDSALL: That's I believe one of the items that you might be able to use a little discretion on, if that's what you believe is consistent with an organization's use of their property. If, again, if it was used for functions that they were holding, it may make sense, if it was rented out and became a commercial field for competition, has nothing to do with the organization, again, that may be a different ballgame altogether. No pun intended.

MR. COPPOLA: Maybe we have to insert some wording into there to that effect to restrict that, I guess.

MR. PETRO: I'm going to reserve the right to make a decision on the zoning, if I think it's classified. Let's continue with the site plan. If something comes up and Mark and I will discuss it, other board members, we'll get back to you in case there's a problem. We'll continue as if there's no problem at this time, but I'm not saying--

MR. COPPOLA: We're developing Parcel A, like I said, 10,000 square foot one story building would be fully sprinklered. What we have done is we have located this building in more or less the flattest part of the site here at the top of the driveway. We looked at the building over here, Parcel C, but it was decided that that would be better to leave this to another use. So we're going to be developing a paved driveway with our municipal services, this driveway here up at the top of, this, you come up the hill and basically this building would be kind of at the top of the hill as you arrive, more or less kind of flat. But it's the

flattest area. Like I said, that would be used as their main meeting area, they hold lodge meetings there, they hold dinners there for their members and their basic idea is to construct 6,000 square feet to start. But we're showing it as 10,000 square feet with the parking all the way around. From that main lodge area we'd also have interior bathrooms and the idea was they also do have functions that are outdoor functions, whether it be a use of a field or other things that they do, so that's the idea of having this pavilion here which is adjacent to the parking lot and probably without plumbing and make some type of a dual use with the bathrooms which would be on the south side of the building, so across the parking lot you'd have the bathrooms. So that could serve indoor and outdoor pavilion, their outdoor pavilion and the field which I have asked them about the use of this field and it's consistent with what we said before. And I don't really see this field as being the type of field that they're going to do extensive grading on, I believe they're going to do a little bit of grading on it, call it a soccer field after that.

MR. PETRO: Let me ask you this. You have a 30 foot difference from one end to the other, how are you going to build that with no extensive grading?

MR. COPPOLA: It's not going to be, we did the soccer field at Mount St. Mary, that was a, that elevation is the same on all four corners and crowned in the middle, you're not going to have that here. This will be like the field they have at Temple Hill where it slopes down. I'm not sure how far it slopes down from one side to the other, but we would do some grading but you're not going to make this level at four corners cause that would be extensive.

MR. PETRO: You're not planning on any retaining walls or major construction?

MR. COPPOLA: I don't think they're going to go to the extent of retaining walls. I'm not sure that the field will even be this big because I don't see them doing events where they might need a regulation size field, they more or less said they want a field where they can play soccer, maybe football but I don't think they're anticipating it's going to be--

MR. MILTON: They're really backing away from the idea of soccer just because it was the biggest use of the property but they're looking at its going to be more a playground.

MR. PETRO: Please state your name for the record.

MR. MILTON: Rick Milton, I'm the broker for the Masons.

MR. COPPOLA: We put this there to kind of give them an idea that exactly what you said, you have the 30 foot difference because soccer fields are huge.

MR. PETRO: It's on the plan, we're going to review it, whether or not they use it is almost immaterial. We're going to review it, how you're going to build it and that's it, if you're going to have a 30 foot difference from one end to the other, you'd need substantial fill and cuts. Let us know how you're going to do that.

MR. COPPOLA: We'll address that.

MR. PETRO: Down here you have the office building 3,500 square feet, that's a private drive all the way down to Route 32, can you check the length of that?

MR. COPPOLA: From this office building all the way down I don't have the length.

MR. PETRO: Mark, any idea?

MR. EDSALL: I'm not sure.

MR. COPPOLA: This is 250 feet to here so this could be 500 feet, this is an existing house, it's 2 1/2 stories high, somebody at some point had done some improvements, interior improvements to it. So we basically, without a huge amount of thinking, needed to classify it as a use, a conforming use. So right now, probably this being converted into offices would be the closest conforming use we see.

MR. PETRO: You realize of course to go to office you're going to have a lot of serious things to deal with, ADA, and there's a lot of work there, but it is a permitted use in the C zone, whereas the house, once you change that, you're not going to go back to a house, you understand that because that would be a special use permit by the planning board for a house in a C zone.

MR. COPPOLA: Let me ask you this. Is it our option to leave it as a house in this zone on this property?

MR. PETRO: I would say yes, it's a house now, it's absolutely a house ever since I've been there.

MR. COPPOLA: But even being on the same parcel we could do that?

MR. PETRO: It's a house now, I would say once you change it, you can't go back.

MR. COPPOLA: We're aware of the building code issues with that conversion and accessibility.

MR. MASON: How about drainage and everything, is there any plan for, cause you're going to be creating quite a parking area?

MR. COPPOLA: The basic idea we have to do soil

testing, that's the next thing we have to do, probably most of the drainage up here will be caught and diverted over into a retention area over here, this part of the road will probably catch and develop a second retention area on Parcel C, Parcel C might be able to use at some point. This last little bit that will be down into DOT's right-of-way and probably into their culvert, but I think pretty sure DOT won't want this whole road emptying down here but probably just a segment.

MR. PETRO: How about the outflows for the retention ponds, where would they be going?

MR. COPPOLA: Well, I don't know yet, we have to get into that engineering.

MR. PETRO: So what else are we doing tonight? What are we looking at?

MR. COPPOLA: Just to start SEQRA, we'd like to work with Mark at the workshops, go through all the engineering. There's another big issue we have with the sprinkler, getting our sprinkler up this hill, we have quite a bit of engineering work to do on that, we know this building needs to be sprinklered. There may be pumps that have to be put in so that's an issue we need to investigate.

MR. PETRO: Motion for lead agency.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Newburgh Masonic Fellowship site plan on Route 32. Any further discussion from the board members?

MR. SCHLESINGER: Question, the pavilion that's considered a building because it's got a fixed roof, right, parking and everything is calculated on that also?

MR. COPPOLA: That's a good question. We have not doubled the parking, this would be a separate use, so the parking here is not calculated with the pavilion and the interior being used at the same time.

MR. PETRO: I'm sure Mr. Edsall's going to find that. Motion has been made and seconded. Any further discussion? This is for lead agency. If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: Now, anything else?

MR. MASON: They need a garbage area, anything like that?

MR. PETRO: This is very preliminary. Mark?

MR. EDSALL: I just noted Anthony had said one of the concepts for storm water was that you'd pick up a portion of it and take it to possibly another storm water management basin on Parcel C. If that really is the concept, you should be dealing with that on your lot line change plan and reserving an easement for that use as well.

MR. COPPOLA: Okay.

MR. EDSALL: Before that plan is finalized and stamped.

MR. PETRO: You mean he can't take water from one person's property and make a pond on somebody else's?

MR. EDSALL: We usually hear about that.

MR. COPPOLA: Thank you.

RPA ASSOCIATES - PATRIOT BLUFF SITE PLAN (01-65)

RPA ASSOCIATES - PATRIOT ESTATES SUBDIVISION (01-66)

MR. SHAW: Let me withdraw Patriot Estates and Patriot Bluff and request that you put us on for the next meeting for the purpose of setting a public hearing.

MR. PETRO: You got it. And I appreciate your patience. Let the minutes reflect that there's four members here tonight, including myself and Mr. Argenio, which we have to recuse ourselves from dealings with RPA Associates as requested by the Ethics Board. Once we do that, there will only be two remaining board members which does not constitute a quorum. So, therefore, there's no sense in going forward.

EUGENE & JANN HECHT (TRUCK & TRAILER DEPOT & ECONO
TOWING SITE PLAN & SPECIAL PERMIT (04-03))

Mr. Eugene Hecht appeared before the board for this proposal.

MR. PETRO: Application proposes adding service repair and towing office to the existing site on Windsor Highway. The site also includes other uses. Application reviewed on a concept basis only. I just want to read this in. Based on the information on the plan and application, it's my understanding that the site already includes an insurance office, petroleum sales office and truck and trailer office, sales and showroom area, the plan adds outside display areas for the truck and trailer sales, truck and trailer sales, so it's really you're going to be selling vehicles?

MR. HECHT: No.

MR. PETRO: Well, trucks.

MR. HECHT: We sell truck accessories.

MR. PETRO: Truck and trailer sales. Okay, I understand that now. The service repair use for the truck and trailer use which is a special permit, you understand it's a mandatory public hearing, towing office and outside parking spaces for proposed towing operation. It's in a C zone. Go ahead.

MR. ARGENIO: Basically, the Motor Vehicle Law changed since we bought the property last April and now they said I can sell trailers but if I sell and I can install any accessories, I can put a tool box on it, there's no problem, vehicle comes in, I want to mount something on it, there's no problem. Now they just changed the law which the building inspector is aware of and they now said if I sell a trailer and it has a bulb out and I go to replace the bulb so he can get

back on the road, I need a repair shop license for it. I'm a one man operation, it's ridiculous, but the law changed, we were issued a letter, issued a violation.

MR. PETRO: Keep in mind part of the problem, not just you, but all applications saying this is what we're going to do, you will not be receiving the permission or the, it could be a variance or special use permit, it goes with the property. So although you're saying you're a one man operation and you're receiving this permit to repair there, you can fly to Florida tomorrow morning and you and the new guy--

MR. ARGENIO: I just came back from there.

MR. PETRO: Whatever the case, go to Argentina, I always like to use that one, and therefore, he's going to use the repair to take traffic off the road.

MR. HECHT: It's the not vehicle repair.

MR. PETRO: But I think and I might be a little bit ahead of myself, maybe we can structure the special use permit to be specific to your use.

MR. HECHT: That's fine, I have no problem with that.

MR. PETRO: Then that would give the planning board at least an ability to review somebody else if they go in there and we get a complaint.

MR. HECHT: No problem. And the only other reason I'm here tonight is additional parking for my son in the back for Econo Towing, he already has an office there, there's an office and it's just for parking spaces in the back.

MR. PETRO: NC zone?

MR. EDSALL: C.

MR. PETRO: Towing in a C zone?

MR. BABCOCK: It's a service establishment.

MR. PETRO: Because special use permit would be for the repair license?

MR. EDSALL: Yes.

MR. BABCOCK: Yes.

MR. PETRO: Nothing's changing on the plan, everything is existing?

MR. BABCOCK: Well, we've talked to him, we're adding uses and we've talked to Gene to put in some fencing and slats bordering the residential area that's on the south side.

MR. PETRO: Little screening but I mean as far as structures, in other words.

MR. HECHT: Not doing any structures.

MR. PETRO: You're not changing the curb cut on Route 32 so we don't have--

MR. HECHT: No construction whatsoever.

MR. ARGENIO: DMV is what sent him here?

MR. BABCOCK: Right, we worded a letter for him to get a DMV license saying he can only sell trailers, that's a retail shop, no motor vehicles and then they came back to him and said you can't fix the trailers then so he needs to now put a bulb, he needs to put a light bulb, he needs a repair establishment and he's got to get that approved from this board.

MR. PETRO: The planning board may wish to assume lead agency.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare itself lead agency for the Eugene and Jann Hecht site plan and special permit on Route 32. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: I don't think any of the members have any problem with this. It's, I mean, you're really not changing anything, it's almost technical, you're going to add some slats in the fence for screening on the Surinski side, you're adding four spaces I believe. Is that right?

MR. EDSALL: Yeah. The only problem they've got, Mr. Chairman, is with the additional uses when you do the parking calculation, parking doesn't work, so they need to give that some attention. There was one miscalculation made, I think what Gene needs to do is really decide if he wants to say there's two repair bays in that back area.

MR. HECHT: I don't even use it, it's just storage.

MR. EDSALL: Or just one and reduce the required parking a bit, but he still needs to look at the parking calculation to work. And secondly, you've got

to decide whether or not you're going to allow customer parking to be in the fenced area because right now, the front area doesn't have adequate parking.

MR. HECHT: Did you get the revised one?

MR. EDSALL: I've got the plan that was submitted.

MR. SCHLESINGER: What about all the open space in the back?

MR. EDSALL: The planning board does not allow customer parking to be in a fenced in area.

MR. SCHLESINGER: What happens if he takes down the fenced area?

MR. EDSALL: I think it comes down to the, I mean, my suggestion would be is that he should look at really what the calculation is, if he has two repair bays, I don't think he does.

MR. SCHLESINGER: Only use one bay.

MR. HECHT: Actually, I don't use any now.

MR. EDSALL: If his operation is one bay, fine, if another user as the chairman said comes in, wants more bays, he'd have to come in and revise parking.

MR. ARGENIO: What did you say he's going to need? Make sure we cover it now, remember you said for an impound?

MR. BABCOCK: He needs one bay.

MR. HECHT: One bay would do it.

MR. MASON: Is there any cars going to be parked there?

MR. HECHT: In the back if he has a police impound. No wrecks because the wrecks go right out to body shops, there's no repairs.

MR. BABCOCK: If he picks up a wreck in the middle of the night?

MR. HECHT: Goes to the shop, goes up to John's, the old place, I don't want them there.

MR. PETRO: I don't want to sit here and design the plan, you're going to schedule a public hearing, it's mandatory. During that time, make the plan for parking satisfy him for parking, whatever you need to do, if you make one or two bays, call it storage, I don't care but your whole plan is going to be subject to special use permit which will be able to be reviewed by this board any time, in case you change or the next guy says I'm going to make the next car headquarters there. So just make the parking work. All right, Mark?

MR. EDSALL: Yes.

MR. HECHT: Are we good?

MR. PETRO: We have to schedule, motion to have the public hearing.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board have a public hearing for the Eugene and Jann Hecht site plan and special permit on Route 32. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: What you can do is get the plan corrected, show the screening on that fence, I don't know if it's on the plan or not and what else, there was one other item, plus the parking.

MR. HECHT: Yeah, the inside shop.

MR. PETRO: Get the plan correct, contact Myra and get scheduled for a public hearing.

MR. HECHT: Thank you.

DISCUSSIONNEW WINDSOR FIRE DEPARTMENT - DECISION ON PUBLIC
HEARING SCHEDULING

MR. PETRO: I know there's a lot of people here with a lot of concerns, this is not a public hearing, you're not allowed to speak, but I know why you're here. I have letters here from some of you, Mr. Winters, I think I met you, is that the right name? I have it right. We met and spoke. So why don't you listen to me I guess for a while then we'll go from there.

"Town of New Windsor Planning Board," this is from Mr. Krieger who is the attorney for the Planning Board, dated January 28, 2004, New Windsor Fire Department is the subject. "The application. New Windsor Fire Department has petitioned the Town Board for a declaration that it is exempt from zoning and planning. The Town Board has referred this matter to the planning board to hear and determine. The New Windsor Fire Department seeks permission to erect a new firehouse in an R-4 District on Walnut Avenue. It claims it is a political subdivision of the state and that it is seeking to erect a municipal building and that therefore, it is exempt from zoning and planning laws.

Under discussion. For the purpose of this application, the New Windsor Fire Department is in fact a governmental agency and is entitled to apply for the exemption. It is up to the board to determine whether or not, however, the exemption will be granted to the New Windsor Fire Department. The New Windsor Fire Department is subject to the Town zoning and building regulations, unless this board determines it isn't. This board must balance the public interest and may decide to allow or not to allow the use sought. To make this determination, the board should consider a number of factors. Although the Court of Appeals has enumerated the factors, the method of determination is up to the board. A public hearing is not required by

law, but since one of the factors is opportunity to be heard, the board may want to have and may have a public hearing.

The factors that the board must consider are:

1. The nature and scope of the instrumentality seeking immunity.

2. The kind of function or land use involved.

3. The extent of the public interest to be served by the improvement.

4. The effect of local land use regulation would have upon the enterprise concerned.

5. The impact upon legitimate local interests.

6. The applicant's legislative grant of authority.

7. Alternative locations for the facility in less restrictive zoning areas.

8. Alternative methods of providing the needed improvement.

9. Intergovernmental participation in the project development process.

10. An opportunity to be heard."

Now, this is important. "The board should consider all the numbered factors but are not necessarily of equal weight. Each member should determine for himself the importance of each factor. One factor maybe so significant as to completely overshadow all others."

That's enough. Do any of the members have anything that they want to talk about, about any of

that or shall I continue?

MR. ARGENIO: I have one question I wanted to ask Andy, and Andy, if you can just in a few sentences or less expound on number 9, intergovernmental participation in project development process.

MR. KRIEGER: It means basically how much, in this case, planning board is going to participate in the process. In other words, one of the things, things that you can consider is the extent to which you're participating.

MR. ARGENIO: Okay. That was it, Jim.

MR. PETRO: Again, I'll continue, if any of the members want to stop me at any time for a difference of opinion with me, please do so. I put a lot of time into thinking about this and I have met with some of the members of the New Windsor Fire Department and discussed it with them even months ago and I kind of thought we had an understanding but evidently, we didn't. And it was my opinion at that time that regardless of this nine point plan, even though there's ten on this sheet, that the right thing to do would be to share, to show the people what's going on, it's an R-4 zone, to go through the process and eliminate all this, they have elected not to do that. So this is why we're at this process at this time. So, I'm still back to the same spot, only this time, it's now the Planning Board's call. We have received a number of letters from concerned citizens, I think there's about 20 or 30 people in the room as I speak, you're all residents of Walnut Street, basically. I guess there's a little coalition there that wants to be heard, there's some signs been put up, so there's definitely an interest to what's going on. About five or seven years ago when we took down the hill, not we, the New Windsor Fire Department took down the hill, we did have a public hearing at that time, there was a hundred people in

this room and that was a pretty heated confrontational public hearing, to say the least. So it's not like there's no interest, there's a lot of interest, which leads me to number ten on the list here, the government's list of what we should consider which is an opportunity to be heard.

So, in my opinion, I'm going to deny, this board is going to deny New Windsor Fire Department exemption by the nine point program that they're seeking strictly on an opportunity to be heard by the public. And that was my opinion in the beginning, it's still my opinion and an opinion of this board. And again, if anybody disagrees with me, speak now.

So, therefore, I'm going to suggest and/or not suggest, I think it is the decision of this board that the New Windsor Fire Department is not exempt from local zoning and planning laws and needs to make application to the planning board, period. And I want that in the form of a motion, if nobody disagrees.

MR. KRIEGER: That would also mean because they were not exempt from the zoning laws they would have to apply for a variance as well.

MR. PETRO: Correct, any local zoning or planning board.

MR. KRIEGER: That's the partial answer to your question about intergovernmental participation.

MR. ARGENIO: Okay, yeah, I'll make that motion.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion's been made and seconded that the New Windsor Planning Board deny the New Windsor Fire Department's request to be exempt from zoning and planning laws in the Town of New Windsor and basically, that's it, and they need to adhere to those laws the same as any other applicant. Any further discussion

from the board members? Mark, do you have any comment at all?

MR. EDSALL: No, I'm just going through the steps and it fits right in with what Andy's memo outlines.

MR. SCHLESINGER: No comments, roll call.

ROLL CALL

MR. MASON	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

MR. PETRO: Okay, that's done. Simply, folks, what that means is they have to go through due process like you or I would which means they have to make application to the planning board with a site plan, that site plan would be triggered, it's R-4 zone, so therefore, frankly, with the first time they came in with the site plan, they'd be denied by this board because it's not a permitted use in the zone, which means from here, they'd go to the zoning board. Once they're at the zoning board, they have to go for a use variance to use that land in the need that they want which would be a firehouse. I have no control there, I mean, the zoning board would review it, if a use variance is granted for whatever reason, it may or may not be, I have no clue, they would then come back to this planning board and we would review it as a site plan which means then we'd look at drainage, lighting, landscaping, the building itself, the height, all the steps that go with the planning board. But that's a lot of ifs, that's down the road, down the road, down the road, it would be mandatory for the use variance to have a public hearing and probably the planning board would have a public hearing also, it's mandatory at zoning. Here I can tell you they would. And that's it. Does any one person want to speak? This is not a

public hearing but there's a lot of people here.

MR. WINTERS: Has the planning board turned down the petition solely on one basis or have they turned it down because they don't meet all of the nine points of criteria?

MR. PETRO: Well, as the attorney says for the planning board they don't have to meet all, only one is sufficient. If they don't meet one, we felt that that superseded all the others, that's enough, and in my estimation for the people not to have an opportunity to be heard and I'm the guy, I'm usually very pro applicant, in other words, if you have a piece of property and I go back to Hannafords all the time cause I took a lot of heat for Hannafords, the law says that's where it goes. I think I told you this. So that's what they're doing, you know, and people come in and complain. In this case, it's almost reversed, in other words, the people should have a right to at least say what they know about the area, voice of something that's not permitted there, why is it being permitted there and I think it's very important. So I think number 10 stands on itself. I didn't even have to go any further. There's other ones that wouldn't work also, I can probably give you four more that would I think support our decision as a board not to grant the exemption, but I think number 10 is more than sufficient opportunity to be heard. That's it.

MR. WINTERS: Thank you.

MR. PETRO: Thank you.

MOORES HILL ESTATES

MR. PETRO: Dear board members: We request on behalf of our client that the Moores Hill Estates project be placed on the January agenda for extension of preliminary approval. We're presently resolving open issues with the Town Highway Superintendent, expect to have his approval shortly. All other approvals of the project have been obtained. It's from AFR Engineering Group. This is for a 90 day extension.

MR. EDSALL: It's a six month but I doubt they'll need it, they're very close to getting approval or getting--

MR. PETRO: For 180 day extension.

MR. EDSALL: Six months.

MR. PETRO: Motion.

MR. ARGENIO: So moved.

MR. SCHLESINGER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant 6 month extension of the preliminary approval to the Moores Hill Estates subdivision for six months. Is there any further discussion? If not, roll call.

ROLL CALL

MR. MASON	AYE
MR. SCHLESINGER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

NEW WINDSOR FIRE DEPARTMENT - CONTINUED

MR. PETRO: I wanted to thank Andy on the record, I think he did a fine job on the memorandum on the New Windsor Fire Department and he came up with a very good determination and I think he did a good job. That's it.

MR. SCHLESINGER: Just a question on that. At our last meeting, we discussed about the fire department having something to do with the volunteer as opposed to non-volunteer, is that an issue?

MR. KRIEGER: Yeah, well, it was, there were, yes, there were two issues involved, basically whether or not they were entitled to apply for because of the governmental status, that's the one that you referred to and whether or not once they have applied, they would be entitled to be declared exempt, that was the second issue was voted on tonight and was decided, with respect to the intergovernmental agency portion. Town Law ties in for this purpose the district and the company, it's subject to interpretation, but since the planning board went ahead and considered the petition to deny that, they went ahead and considered it, it now renders that first question moot.

MR. SCHLESINGER: Where is the firehouse now?

MR. PETRO: On the corner of Cedar and Walsh.

MR. SCHLESINGER: How far away is it, half mile?

MR. PETRO: Maybe, I doubt it.

MR. SCHLESINGER: But it's more on the outskirts of the residential area now where it is now?

MR. PETRO: Pretty much, yeah.

MR. SCHLESINGER: Okay.

MR. PETRO: It's by the graveyard, they never complain.

MR. MASON: Do you know why they're asking for this?

MR. PETRO: Can't get one of the trucks in the place, too small inside, and the parking is insufficient, that's why they can't expand, they expand, they lose the parking and augments the whole problem.

MR. KRIEGER: What about the parcel that contains the little brown house next to them, they own that parcel or not?

MR. PETRO: I don't think so.

MR. BABCOCK: Vails Gate just did the same thing, they raised the roof on the one up here so the trucks could fit. The trucks are bigger and bigger.

MR. ARGENIO: Trucks get bigger.

MR. SCHLESINGER: Raise the roof.

MR. BABCOCK: Over there they had nothing above the roofs, took it off and put blocks on down. There they have a room above it.

MR. ARGENIO: They're on a postage stamp over there.

MR. PETRO: Motion to adjourn.

MR. ARGENIO: Motion to adjourn.

MR. SCHLESINGER: Second it.

ROLL CALL

MR. MASON

AYE

January 28, 2004

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MR. SCHLESINGER	AYE
MR. ARGENIO	AYE
MR. PETRO	AYE

Respectfully Submitted By:

Frances Roth
Frances Roth
Stenographer

2/2/04